

PATENTS

Application Serial No. 09/944,389

DOCKET NO: ISA-048.06

(Old Docket No. IMIN.P-002-2)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Davis, et al.

Application No: 09/944,389

Filed: September 4, 2001

For: Assays

Art Unit: 1641

Confirmation No.: 9864

Examiner: Nguyen, Bao Thuy L.

CERTIFICATE OF MAILING/TRANSMISSION

I hereby certify that the correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Mail Stop: 313(c), Office of Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on June 27, 2005.

~~Jennifer A. Zarutskie~~

**Mail Stop: 313(c)
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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450**

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JUN 27 2005

OFFICE OF PETITIONS

INFORMATION DISCLOSURE STATEMENT

Sir/Madam:

Pursuant to the duty of disclosure under 37 C.F.R. §§1.56, 1.97 and 1.98, the Applicants request consideration of this Information Disclosure Statement.

PART I: Compliance with 37 C.F.R. §1.97

This Information Disclosure Statement has been filed before the mailing of a first Office Action after the filing of a Request for Continued Examination Under 37 C.F.R. §1.114.

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PART II: Information Cited

The Applicants hereby make of record in the above-identified application the information listed on the attached form PTO-1449. The order of presentation of the references should not be construed as an indication of the importance of the references.

Further, the Applicants also wish to bring to the attention of the Examiner the following information:

Pursuant to MPEP §2001.06(c), Applicants bring to the Examiner's attention that a U.S. patent, U.S. Patent No. 6,352,862, relating to the present application has been involved in litigation. This patent is assigned to Inverness Medical Switzerland GmbH. The present application is entitled to the benefit of this patent under 35 U.S.C. §120.

The aforementioned patent is also involved in the litigation Inverness Medical Switzerland GmbH and Unipath Diagnostics, Inc. v. Acon Laboratories in the United States District Court, District of Massachusetts, Case No. 02-12303 PBS and in the litigation Inverness Medical Switzerland GmbH, Unipath Diagnostics, Inc. and Church & Dwight Co. v. Acon Laboratories in the United States District Court, District of Massachusetts, Case No. 03-11323 PBS. Further, the aforementioned patent is also involved in the litigation Quidel Corporation v. Inverness Medical Switzerland GmbH, et al. in the United States District Court, District of Southern California, Case No. 04-CV378-B and in the litigation Inverness Medical Switzerland GmbH, et al. v. Quidel Corporation in the United States District Court, District of Southern California, Case No. 04-CV489-B.

PART III: Additional Remarks

Documents cited on the attached form PTO-1449 are enclosed unless otherwise indicated on the attached form PTO-1449. It is respectfully requested that:

1. The Examiner consider completely the cited information, along with any other information, in reaching a determination concerning the patentability of the present claims;
2. The enclosed form PTO-1449 be signed by the Examiner to evidence that the cited information has been fully considered by the Patent and Trademark Office during the examination of this application;

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3. The citations for the information be printed on any patent which issues from this application.

By submitting this Information Disclosure Statement, the Applicants make no representation that a search has been performed, of the extent of any search performed, or that more relevant information does not exist.

By submitting this Information Disclosure Statement, the Applicants make no representation that the information cited in the Statement is, or is considered to be, material to patentability as defined in 37 C.F.R. §1.56(b).

By submitting this Information Disclosure Statement, the Applicants make no representation that the information cited in the Statement is, or is considered to be, in fact, prior art as defined by 35 U.S.C. §102.

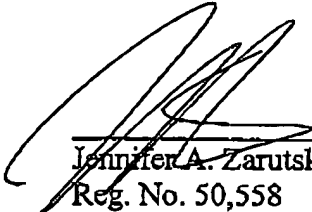
Notwithstanding any statements by the Applicants, again the Examiner is urged to form his own conclusion regarding the relevance of the cited information.

An early and favorable action is hereby requested.

No fee is believed to be due in connection with this submission. The Commissioner is hereby authorized to charge any additional fee occasioned by this paper to our Deposit Account No. 06-1448.

Respectfully submitted,

Date: June 27, 2005
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Form PTO-1449			Docket Number (Optional) ISA-048.06 (Old Docket No. IMIN.P-002-2)		Application Number 09/944,189		
INFORMATION DISCLOSURE CITATION IN AN APPLICATION <i>(Use several sheets if necessary)</i>			Applicant Davis, et al.				
			Filing Date September 4, 2001			Group Art Unit 1641	
U.S. PATENT DOCUMENTS							
EXAMINER INITIAL	DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE	
A1	6,485,982	11/26/02	Charlton, et al.				
A2	5,571,726	11/05/96	Brooks, et al.				
A3	5,514,602	05/07/96	Brooks, et al.				
A4	4,978,503	12/18/90	Shanks, et al.				
FOREIGN PATENT DOCUMENTS							
	DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	Translation	
						YES	NO
B1	0 250 137 B1	26.08.92	EP				
B2	0 170 375 B1	16.05.90	EP				
EXAMINER				DATE CONSIDERED			
EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP § 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to the applicant.							